and the litigation is evidently due to the influence of the husband.

I would remark, thirdly, that she alone of all the family complains, and that she is seeking to upset the law this family has made for itself, and to which she has formally consented. Under these circumstances, not only all the proof is upon her, but all the presumptions, to begin with, are against her. Fourthly, lesion alone will not allow her to set aside the *partage*. 1012 C. C.

In spite of all this, she may be right to some extent, and she may have signed through error. Now let us examine in detail her pretentions. She says appellant was trusted by everybody, and that he made the whole inventory alone and without their participation. Now the terms of the deed before Mr. Labadie contradict this. Appellant made an inventory of the effects of the partnership and produced the stocks and other securities of his brother, which he had in his hands. I am not aware that it is even contended any of the bank shares were concealed. But there was a great point made of the cash in the People's Bank. It was said appellant appropriated this money, or a part of it, and our attention was particularly directed to appellant's evidence as a proof of his misdeeds. Now what is his story? He wanted to draw the money after his brother's death, but he was told at the bank he could not do so then. Upon this he borrowed some money from the bank, settled with his sisters the nuns, and as the family agreed to accept the bargain which appellant made with them, he credited himself with what he paid. We are now told he should have paid nothing, the nuns had no rights, they were civilly dead. If this be true, what has Hyacinthe more to do with it than the Respondent? He can't be charged with the error alone, if error there be, and if the arrangement is to be set aside, then these ladies or their *communauté* ought to be *en cause*, and there should be sufficient allegations and conclusions taken against them. But in fact, it seems, they are not civilly dead, or rather I should say, subject to civil disability, analogous, in its legal relations, to civil death. There is some doubt as to whether there are any nuns in this country in this position. I remember when the 34th Art. of the C.C. was under discussion, grave doubt was expressed as to whether there were any such disabilities in Canada, and the very guarded article of the Code was inserted to cover a possible contingency. We have had no attempt to show us that the *communauté* in question is one of those contemplated by the article. The parol evidence does not establish the pretention of Respondents, even if parol were admissible, which I doubt its being, except perhaps in the case of a *communauté* existing on an immemorial foundation. The balance of the money in the Banque du Peuple, over $2,000, is accounted for as cash in the inventory.

At the argument our attention was specially called to appellant's evidence as being conclusive against him. But so far from this being the case his evidence seems to me precisely to contradict the plaintiff's allegations. But it is urged he kept no books, he can't prove this, and he can't establish that. The answer is, the proof is not on him at all. He has got his deed, and it is for plaintiff to show that her signature to that deed was improperly secured, or that it does not bind her. Again, no presumption arises against his good faith from the fact that A. & H. Charlebois kept their accounts irregularly. This was as much the fault of Arsène as of Hyacinthe. It might possibly have been a difficulty for Hyacinthe, if his inventory had not been accepted, but now it cannot change the *onus* of the proof.

Again, we are told that the partnership being in writing the presumption is that it continued in the terms of the deed, and that this presumption cannot be rebutted by parol testimony, which is expressly excluded by the Ordinance of 1629, and that by that Ordinance the partnership should have been registered. It is perhaps no misfortune for respondent that this ordinance has fallen into abeyance. But in any case there is no difficulty as to proof. By the *partage* respondent admits that appellant's share was a half. Now she must prove that she admitted this by error. The proof, however, establishes not only that it was highly improbable that she did not know, but that she actually did know all about it, had talked the thing all over with the family, and deliberately accepted Hyacinthe's statement. There is also parol evidence establishing that the fact accepted by the *partage* was true and not fraudulent.

By the rulings at *enquête*, and by the judgment, all this evidence was set aside. There is a *considérant* of the judgment as follows:

"Considering that the parol evidence such